

### **Remarks**

This Response is filed in reply to the non-final Office Action of May 31, 2005, in which claims 1 and 8-11 were rejected under 35 U.S.C. §§102 and 103. Claims 3 and 6 were indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. New claims 28-32 have been added. Claim 10 has been amended to provide for proper antecedence. Claims 1-32 are presently pending, with claims 2, 4, 5, 7, and 12-27 having been withdrawn.

The Examiner is thanked for the indication that the arguments filed with the February 28, 2005 response were found to be persuasive with respect to the previously cited prior art, and that the rejection based on that art has been withdrawn.

The Examiner is also thanked for the indication that claims 3 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Examiner stated that, regarding the allowable subject matter, the prior art fails to disclose the inner component comprising a balloon.

Applicants have added new claim 28, which includes all of the limitations of claim 1, along with the allowable subject matter of claim 3. New claim 29, which depends from new claim 28, includes the limitations of claim 3, with the exception of the allowable subject matter, which has been carved out and inserted into new claim 28. New claim 30, which depends from new claim 28, includes the limitations of allowable claim 6.

Applicants have also added new claims 31 and 32, which provide a distinction over claims 9 and 10. Claims 9 and 10 recite hemostatic agent fibers and reinforcing fibers, whereas claims 31 and 32 recite hemostatic agent yarn and reinforcing yarn. Support for claims 31 and 32 may be found in the Specification, page 11, lines 14-16. Applicants respectfully submit that no new matter has been added.

### **The Office Action**

In the Office Action, the Examiner rejected claims 1, 8, and 9 under 35 U.S.C. §102(b) as anticipated by Shippert (U.S. Patent No. 5,827,224). The Examiner rejected claims 10 and 11 under 35 U.S.C. §103(a) as being unpatentable over Shippert because it is well-known in the art to make an absorbent material from fabric comprised of a gel-forming absorbent composition or absorbent fibers knitted or woven together and reinforcing the fiber with polyester or nylon. Applicants respectfully traverse these rejections.

In the Office Action, the Examiner also objected to claims 3 and 6 as being dependent upon a rejected base claim, but the Examiner indicated that the claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Lack of Anticipation**

To anticipate a claim, a reference must teach every element of that claim. That is, the identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). See, M.P.E.P. § 2131.

Shippert discloses a medical device 20 having a delivery tube 28. The delivery tube 28 has a channel section 32. Packing material 24 is wrapped around the channel section 32. The packing material 24 forms a soft distal end 48. See Fig. 2 and column 5, lines 25-61.

In contradistinction, claim 1 recites, *inter alia*, a device for controlling bleeding on an inner wall of a body cavity or passageway. The device comprises an insertable shaft having a distal end. The shaft is comprised of a hemostatic shroud disposed around an inner component. The inner component has a distal end. The shaft has a soft tip on the distal end of the shaft. The shroud is disposed around the shaft and extends beyond both the distal end of the inner component and the distal end of the shaft. (Emphasis added.)

As recited in claim 1, the shroud extends beyond the distal ends of two components: that of the inner component and that of the shaft. Shippert, on the other hand, only discloses his packing material around and distally of a single component, the channel section 32, forming the distal end 48. Shippert fails to disclose or suggest the shroud extending beyond a second distal end.

Therefore, the elements of pending claim 1, particularly the shroud being disposed around the shaft and extending beyond both the distal end of the inner component and the distal end of the shaft, are neither disclosed nor suggested by Shippert. Applicants respectfully submit that claim 1 is in a condition for allowance and respectfully request withdrawal of the rejection.

Because claims 3 and 6 depend ultimately from claim 1, Applicants respectfully submit that they too are in condition for allowance for at least this reason.

**Non-obviousness**

Claims 10 and 11 depend either directly or indirectly from independent claim 1. Because claims 10 and 11 are considered narrower than the claims from which they depend, and claim 1 was not rejected as obvious in view of Shippert, applicants submit that claims 10 and 11 are also in condition for allowance for the reasons set forth above with respect to claim 1.

Notwithstanding the above reason for the allowabilty of claims 10 and 11, Applicants offer the following remarks in response to the rejection.

Applicants challenge the Office Action statements that "it is well known in the art to [make] absorbent material from fabric comprised [of] a gel-forming absorbent composition" and that it would be obvious to "substitute the hemostatic material or absorbent material of Shippert for the material as claimed." A general conclusion of what is well-known or what are common substitutes to one of ordinary skill in the art without specific factual findings and some concrete evidence in the record to support these findings will not support an obviousness rejection. See *Zurko*, 258 F.3d 1379, 1385, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001).

**Conclusion**

For the reasons stated above, claims 1, 3, 6, 8-11 and 28-32 are believed to be in condition for allowance. Early and favorable notification to this effect is respectfully requested.

Respectfully submitted,



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